

MEMORANDUM

September 25, 2013

TO: Planning, Housing, and Economic Development Committee

FROM: Jeff Zyontz, ^{JZ}Legislative Attorney

SUBJECT: ZTA 13-04, Zoning Ordinance – Revised and District Map Amendment G-956
Worksession #11 – Wrap-up

Schedule:

Before October 11:	Complete PHED recommended text and map online and notice of November 12 public hearing
November 12 & 14:	Council public hearing on PHED text and map recommendations
December 2 & 9:	Additional PHED worksessions to consider public hearing testimony
January:	First Council worksession

The Committee's directions for Staff from the September 20 worksession (only changes to the proposed draft are noted) are as follows:

- 1) Conform §3.5.13.C.2.c to 2012 code standards for filling station lighting.
- 2) Only limit sign footcandles where the property is zoned residential and vacant or is used for residential purposes in any zone.
- 3) In the CR/CRT public benefits, amend the: a) advance dedication, and b) transit access or streetscape improvement as recommended by Planning Staff.
- 4) Use 42-foot height limit in translating the C-O zone in Westbard.
- 5) Correct all mistakes in the proposed zoning map.
- 6) Reflect zoning approvals in height and density where requested to do so.
- 7) In §8.3.F.3, allow the Hearing Examiner to impose any condition necessary to protect nearby properties and the general neighborhood.

The following items will be addressed at the Committee's September 27 worksession:

- 1) *Does the Committee want to revise its recommendation on setbacks for chicken roosts (15 feet from a lot line) back to the current limits (25 feet from a lot line and 100 feet from any neighboring house) in light of the September 17 letter from Dr. Tillman? (See © 1-2.)*

After reviewing additional medical literature and consulting with the Maryland Department of Agriculture, the County Health Officer has "reservations about the proposed modifications that would allow hens, poultry, and other farm animals to be raised in residential settings with a shorter setback distance from the property line."

Dr. Tillman will attend the Committee's worksession.

- 2) *Have DOT respond to the Planning Staff's redraft of parking minimums (no minimums in the Parking Lot Districts, but required minimums elsewhere).*

Based on conversations with DOT and Parking Lot District Staff, Planning Staff revised their draft to eliminate minimum parking requirements in Parking Lot Districts. The Executive does not object to removing the minimum number of required parking spaces in Parking Lot Districts. The Executive's willingness to agree to no minimum parking requirements is dependent upon their ability to tax all future development, by amending Chapter 60. DOT submitted the following comment:

ZTA 13-04, as originally proposed, included minimum and maximum parking requirements for all land uses throughout the County. The County Executive does not recommend the elimination of parking minimums; however, if the Council has a strong desire to eliminate parking minimums within the currently established Parking Lot Districts (PLDs), he has no objection so long as: the Ad Valorem parking tax continues to be applied to all properties currently paying the tax; those properties currently exempt from the tax continue to be exempt until the property is re-developed; and all new developments or re-developments approved without parking minimums be required to pay the tax.

Removing the minimum parking in parking lot districts removes an option currently available to developers to build parking or pay. At a minimum, representatives of development in progress who are providing all of their currently required parking would want assurance that they would continue to be exempt from the parking tax.

- 3) *In §8.3.1, edit text concerning inherent and non-inherent effects for the Committee's review.*

Delete §8.3.1.E.5. and replace §8.3.5.E.1.g. with:

"will not cause undue harm to the neighborhood by virtue of a non-inherent adverse effect alone or the combination of an inherent and a non-inherent adverse effect in the following categories:"

4) *Align the application requirements for a floating zone with the findings necessary for approval.*

As proposed, a floating zone applicant would be required to submit a traffic study under the Local Area Transportation Review (LATR) guidelines (§8.2.1.B.3.e.v.(d)), but the finding for approval is compatibility and “adequate and safe internal ... transportation and circulation” (§8.2.1.E.1.e). In Staff’s opinion, the use of a LATR study at zoning is an unnecessary duplication of a subdivision requirement.

Staff recommends changing §8.2.1.B.3.e.v.(d) to say, “A traffic study as determined by the Planning Board guidelines sufficient to make the findings necessary for approval.” Staff would also recommend adding a provision stating that a finding of compatibility does not require consideration of off-site transportation capacity to approve a floating zone application.

Staff acknowledges that this idea may be more palatable with more restrictive criteria for the application of floating zones. That is addressed next.

5) *Review alternatives to Staff’s September 17 recommended floating zone criteria.*

On September 17, Staff recommended that non-residential floating zones and apartment floating zones only apply on a residential zone when recommended by a master plan OR the property satisfies the following 3 criteria: the property is located 1) within 1 mile of a Level 1 transit station/stop; 2) on a non-residential street; and 3) abutting non-residentially zoned property.

In light of the Council’s past practice as compiled by Planning Staff, this recommendation is overly restrictive. Planning Staff is proposing a middle ground between the restrictive September 17 proposal and the floating applicability provisions as introduced. (See © 6-19.)

A controversial aspect of ZTA 13-04 was the minimum standards required for a non-residential floating zone application on property zoned residential. Planning Staff would add new requirements. The floating zone applicant’s property must:

- A) front on a non-residential street or abut or confront property that is mixed-use or non-residential;
- B) satisfy additional prerequisites (more categories—in ZTA 13-04 there are 2 categories; in the Planning Staff proposal there are 4 categories).

Planning Staff has rewritten prerequisites. There would still be developer options to satisfy each of the prerequisite categories (transit and infrastructure, vicinity & facilities, environment & resources, location).

6) *Provide a means for hospitals to exceed .5 FAR in residential zones.*

Add to conditional use standards for hospitals:

- “h. Notwithstanding the maximum FAR requirements for general buildings, the maximum FAR for Hospitals must be established by the Conditional Use Approval in all Residential and Industrial zones.”

- 7) *Revisit the Staff proposed provision for places of worship in the AR zone to determine if it is covered by the proposed grandfathering provision and is not over broad.*

The clarification the Committee recommended for minimum lot size in the AR zone presents a unique problem for a non-compliant house of worship. Staff recommends the following amendment to §3.4.10 (double underlined changes indicate changes recommended since the last draft seen by the Committee):

A. Defined

Religious Assembly is a meeting area for religious practices, including a church, synagogue, mosque, convent, or monastery. Religious Assembly includes a memorial garden on the premises.

B. Use Standards

Where Religious Assembly is allowed as a limited use in the AR Zone, the following standards apply:

1. this use may be prohibited under Sec. 3.1.5, Transferable Development Rights.
2. this use is exempt from the minimum site area requirement for General Building in Sec. 4.2.5.A and the maximum density requirement of 1 lot per 25 acres for General Building in Sec. 4.2.5.B if the lawful use existed in a building on the parcel on [May 2, 2013] September 17, 2013 and the parcel has not changed in size or shape since [September 17, 2013] September 17, 2013. If the parcel size or shape is modified by deed or plat, then the use no longer qualifies for this exemption.

- 8) *Grandfathering*

The Chair recommends adding the following provision to the Staff proposed grandfathering provision as follows:

Seasonal Outdoor Sales and temporary uses, structures, and site designs, that have been in existence or operation some time during the preceding year, that may not be in existence or operation on the effective date are also treated as existing under this Section A.

Staff does not recommend this change. DPS would include these uses within the scope of the following provision:

Any use that was conforming or not non-conforming on [effective date], and would otherwise be made non-conforming by the application of zoning on [effective date] is conforming, but may not expand.

Any use includes any use. A use that exists is always in operation; the phrase “in existence or operation” is unnecessary. If the Committee agrees with the concept of specifically grandfathering seasonal outdoor sales, Staff requests the ability to edit the proposed provision. Staff’s last draft had 2 separate provisions: one for structures and another for uses. As proposed, temporary and seasonal uses that are currently illegal would be grandfathered as legal.

9) *Density average in Silver Spring*

Density averaging between CR zones is currently allowed, but may not increase the density when the subject property abuts or confronts one-family detached residential zones. A property owner in Silver Spring that is across Cedar Lane from one-family residentially zoned property would like the ability to average density and to avoid the neighborhood compatibility standards if the residential property is separated by an arterial roadway or higher classification street.

Staff does not recommend this additional flexibility.

10) *Agricultural uses – agricultural process and agricultural tourism*

A) *Agricultural Education/Tourism - Proposed revisions by the Agricultural Advisory Committee (AAC)*

The AAC recommended the addition of Agricultural Education/Tourism as a Limited use in the AR zone. The Planning Board first supported this new term on October 18, 2012 and then rejected this new term on October 25, 2012 due to pushback from other stakeholders. The AAC recommended this new term to address the uses and activities that are currently in place at numerous on-farm markets and other farming operations where agricultural education and tourism activities are offered to the citizens of Montgomery County. These activities are already functioning well as both support to the bottom lines of working farms and as enhancements to the quality of life for all citizens of the County. Their existence and function should be recognized in the Code, in AAC's opinion.

The AAC recommends the following Definition and use Standards:

Definition

Agricultural Education/Tourism: Agricultural and accessory activities conducted as part of a farm's regular operations with emphasis on hands-on experiences and events that foster increased knowledge of agriculture, including cultivation methods, animal care, water conservation, Maryland's farming history, the importance of eating healthy, locally grown foods, and includes corn mazes, hay rides, and educational tours, classes, and workshops.

Use Standards

Where agricultural education/tourism is allowed as a limited use, it is subject to the following standards:

- a. The property must be farmed and agriculturally assessed.
- b. A minimum of 80% of the property is maintained in agricultural cultivation, pasture land, woodland, or natural features.
- c. Impervious area is a maximum of 8% of the portion of the site where the Agricultural Education/Tourism area is located.
- d. The property must have proper sanitation facilities approved by the Department of Permitting Services.

The AAC was asked by the Planning Board to comment on the types of recreational uses that should be permitted as part of this Agricultural Education/Tourism use. The AAC recommended only recreational opportunities directly related to agriculture. The AAC did not support paintball events or Celtic festivals. The AAC supported wine festivals, pumpkin festivals, and camping events with agricultural emphasis. The AAC supported archery camps if they are training bow hunters to hunt white-tailed deer in reducing the size of deer herds.

Staff agrees with the Planning Board and does not recommend this change. The use standards would allow large schools and camps that are completely detached from production. What the AAC supports in terms of recreation is allowed as an accessory use to a farm. The Council prohibited large institutional uses in the Agricultural Reserve in 2008. This would reverse that past decision. If places of worship are treated less favorably than other places of assembly, the County can expect future court claims.

B) Accessory Uses to Farming

The Montgomery County Food Council and the Food Recovery Work Group recommended additional text to address the conditions of accessory uses to farming. In the opinion of these 2 groups, the current definition of accessory use should be revised to incorporate additional flexibility for specific products that are included as accessory uses to Farming. The definition of accessory use implies the use must be accessory to the lot or record and we need to make sure this condition does not also apply to the specific products that are included as accessory uses to farming.

The Food Council suggested wording to be inserted into the definition of Accessory Use:

Products included as accessory uses to farming can be produced or generated off-site and transported to the lot of record where the accessory use is located.

Staff does not support this change.

The Committee agreed to the change in the definition of Farming: "Accessory agricultural processing and storage of products grown or raised on-site or on property owned, rented, or controlled [within Montgomery or adjacent counties] by the farmer. Accessory agricultural processing includes a milk plant, grain elevator, on-farm animal slaughtering, and mulch or compost production and manufacturing. If the Committee wanted to follow the recommendation, it would remove the restriction that agricultural processing be from "products grown or raised on-site or on property owned, rented or controlled by the farmer." The effect would be to allow importation of any farm product from anywhere to a processing plant in the Agricultural Reserve; Dole Foods could open a pineapple processing plant in the Agricultural Reserve, using all imported pineapple.

If the concern is to allow mulch and composting production and manufacturing to use a portion of material from off-site, that can be accomplished in a more limited change.

Farming includes the following accessory uses:

1. Accessory agricultural processing and storage of products grown or raised on-site or on property owned, rented, or controlled [within Montgomery or adjacent counties] by the farmer. Accessory agricultural processing includes a milk plant, grain elevator, on-farm animal slaughtering, and mulch or compost production and manufacturing.

2. The sale of products of agriculture and agricultural processing, if products are produced on-site or on property owned, rented, or controlled in Montgomery and adjacent counties by the farmer.
3. The sale of horticultural products grown off-site, but kept on the farm temporarily on a maximum of 2 acres or 20% of the site, whichever is less.
4. The delivery and installation of horticultural products grown on the farm.
5. The production and manufacturing of mulch or compost, with no restrictions on the use of off-site materials.

11) *Notice of Planning Staff intended changes to the DMA*

In the DMA as introduced, CBD-1, CBD-2 and CBD-3 were given density maximums to match §59-C-6.234(b)(ii)(B). Under the current code, mixed-use properties in the CBD-1, 2, and 3 zones are allowed additional commercial density under the optional method if they meet the following criteria:

1. Includes a transient lodging
2. Confronts a major highway
3. Is located at least 250 feet from single-family zoned land
4. Is in an Urban District (as defined in Chapter 68A)
5. Has a minimum lot area of 22,000 square feet
6. Includes a ground floor retail use

The proposed conversion was applied to properties based on criteria 2-5. Planning Staff recommends that these properties not receive the increased density because the uses that are currently required for this increase are not assured. Instead, Planning Staff recommends converting only those properties built that meet all of the criteria – we're asking if the Committee agrees with this change in conversion.

In addition, CBDs were converted to the mixed-use maximum densities; however, for CBD-2 and 3, commercial only projects could get a higher commercial FAR than the commercial FAR allowed under the mixed-use scenario – total FAR is the same. Planning Staff recommends that the commercial FARs be modified so that the currently allowed maximum commercial FARs would still be achievable.

12) *CR zone changes*

The Committee discussed the CR zones, but no recommendations were put forward.

13) *Presentation by Councilmember Elrich*

Councilmember Elrich will have an opportunity to present proposed changes and topics for further discussion. The PowerPoint presentation provided by Councilmember Elrich is attached. (See © 22-41.)

This Packet Contains

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Isiah Leggett
County Executive

September 17, 2013

Uma S. Ahluwalia
Director

The Honorable Nancy Navarro
President
Montgomery County Council
100 Maryland Avenue
Rockville, Maryland 20850

Dear Council President Navarro:

At the Board of Health briefing on June 23, Councilmembers Leventhal and Elrich asked for my views on the health risks, if any, posed by allowing more households to raise barnyard animals on smaller lots. Initially, I highlighted the need to follow proper handling procedures in order to avoid illness. Since that time, my staff and I have done additional research, reviewed articles provided by Councilmember Elrich, and consulted with officials at the Maryland Department of Agriculture (MDA).

My position has been influenced by the following information:

- Current MDA provisions do little to stop the importation of small numbers of poultry or bird smuggling. The MDA requires that anyone having five or more chickens register the poultry premises with MDA. This registration requirement for poultry is not widely known or enforced. (Adding to confusion/misinformation is that registration for other backyard farm animals is voluntary.)
- Often, poultry show no visible signs of infection yet may transmit infection to other birds. Handling chickens without proper handwashing afterwards may spread infections, such as *Salmonella*. *Salmonella* germs are shed in infected bird's droppings and can easily contaminate their bodies and anything in areas where birds live and roam.
- *Salmonella* germs can cause a diarrheal illness in people that can be mild, severe, or even life threatening.
- Young children are especially at risk for illness because their immune systems are still developing and because they are more likely than others to put their fingers or other items into their mouths.
- Since the 1990s, 45 *Salmonella* outbreaks have been linked to live poultry with 1,563 illnesses, 221 hospitalizations and 5 deaths.
- The Centers for Disease Control and Prevention released on August 20, 2013, a report of a multistate outbreak of human *Salmonella* typhimurium infection linked to live poultry in backyard flocks. As of August 15, 2013, 316 individuals have been infected from 37 states, including 19 cases in New Mexico. Sixty percent of the cases are children 10 years of age and younger. No deaths were reported but 51 people have been hospitalized. The investigation has linked this outbreak of human *Salmonella* infections to contact with chicks, ducklings, and other live baby poultry purchased from multiple feed stores. A hatchery in New Mexico supplies baby poultry to feed stores and mail order customers nationwide. Steps have been taken at the hatchery to slow down and stop this outbreak, including sending brochures on safe handling of baby poultry with every shipment.

Public Health Services

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montgomerycountymd.gov/311



240-773-3556 TTY

- Because *Salmonella* can be present in the droppings of chicks and other baby birds and because the animals themselves usually do not show signs of illness, it is easy for people to let their guard down and run the risk of getting *Salmonella*.
- There is a growing problem of abandonment of unwanted birds that have outlived their egg-laying days with rising numbers of birds in animal shelters.

Based on this information, I do have reservations about the proposed modifications that would allow hens, poultry and other farm animals to be raised in residential settings with a shorter setback distance from the property line. Neither the County nor the State has an adequate registration and tracking mechanism for small-scale purchases of poultry. In addition, we do not have in place the type of strong, ongoing consumer education program that is essential to ensure proper handling of such poultry.

Without strong consumer education and a more effective registry and tracking system, there is a somewhat greater risk of infected poultry coming into contact with humans and raising the risk of *Salmonella* infection. In those instances where backyard poultry are currently allowed, the Centers for Disease Control and Prevention recommends taking the following measures to avoid the risk of *Salmonella* exposure.

1. Wash your hands thoroughly with soap and water right after touching live poultry or anything in the area where they live and roam.
 - a. Adults should supervise hand washing for young children.
 - b. If soap and water are not readily available, use hand sanitizer until you are able to wash your hands thoroughly with soap and water.
2. Clean any equipment or materials associated with raising or caring for live poultry outside the house, such as cages or feed or water containers.
3. Don't let children younger than 5 years of age, elderly persons, or people with weak immune systems handle or touch chicks, ducklings, or other live poultry.
4. Don't let live poultry inside the house, in bathrooms, or especially in areas where food or drink is prepared, served, or stored, such as kitchens, or outdoor patios.
5. Don't snuggle or kiss the birds, touch your mouth, or eat or drink around live poultry.

Sincerely,



Ulder J. Tillman, MD, MPH
Health Officer and Chief

UJT:ss

c: Linda McMillan, Senior Legislative Analyst
Jeffrey Zyontz, Legislative Attorney

Div. 1.4. Defined Terms

Sec. 1.4.2.P.

- Replace Parking Benefit District (PBD); PBD, Primary; and PBD, Secondary with:
Parking Lot District: A designated area defined in Chapter 60 that does not require provision of a minimum amount of parking and limits parking that may be provided to a maximum number.
Reduced Parking Area: A designated area defined by a property's zoning and location including any property not in a Parking Lot District, and
 1. In a CR, CRT, LSC, EOF, or equivalent Floating zone, or
 2. In a CRN, NR, GR or equivalent Floating zone that is within 1 mile of a transit station or stop as defined by Transit Proximity.

Div. 7.2 Parking, Queuing, and Loading

Sec. 7.2.1. Intent

- No change.

Sec. 7.2.2. Applicability

- Remove 7.2.2.C – think it's clearer in 7.2.5, which it references.

Sec. 7.2.3. Calculation of Required Parking

- Add 7.2.3.A. In General, 4 & 5:
 4. Any space provided for handicapped persons and any motorcycle/scooter and car-share space counts toward the minimum parking requirement. Car-share spaces are not counted against the parking maximum.
 5. Any on-street parking space in a right-of-way counts toward the minimum required parking spaces if the space is:
 - a. not located within a Parking Lot District;
 - b. abutting or confronting the subject property;
 - c. constructed by the applicant; and
 - d. for a Retail/Service Establishment or Restaurant use, or car-share space.
- 7.2.3.B. Handicapped Spaces: no change.
- Modify 7.2.3.C. Motorcycle/Scooter Parking:
Any parking facility ... up to a maximum requirement of 10; more than 10 [additional] motorcycle/scooter spaces may be provided but any such additional spaces do not count toward the minimum parking requirement. ...
- Modify 7.2.3.D. Car-Share Spaces:

1. One car-share parking ... up to a maximum requirement of 5; more than 5 car-share spaces may be provided.
 2. ...
 3. ~~[Car share parking spaces ... maximum.]~~
- 7.2.3.E. Bicycle Parking and F. Off-Site Parking by Agreement: no change.
 - **New 7.2.3.G: Parking Minimums and Maximums**
 1. Parking Lot District
 - a. There is no minimum parking requirement.
 - b. The maximum parking limit is equal to the parking maximum indicated in the Parking Table under Sec. 7.2.4.B and may not be exceeded.
 - c. A payment may be required under Chapter 60.
 2. Reduced Parking Area
 - a. Parking below the minimum number of required parking spaces, after all adjustments are made under Sec. 7.2.3.H, may only be allowed under Alternative Compliance (See Division 7.8).
 - b. Parking above the maximum number of allowed parking spaces may be provided if all of the spaces provided in excess of the maximum number allowed are made available to the public and are not reserved, or under Alternative Compliance (See Division 7.8).
 - **New 7.2.3.H. Adjustments to Vehicle Parking:**
 1. In General
 - a. Reduced parking rates under this Section, Sec. 7.2.3.H, are not mandatory; the maximum number of parking spaces allowed in a Parking Lot District or Reduced Parking Area is based on the baseline maximum in the Parking Table under 7.2.4.B.
 - b. Adjustments to the minimum number of required parking spaces under this section, Sec. 7.2.3.H, must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum.
 2. Special Uses
 - a. Restricted Housing Types
The baseline parking minimum under the Parking Table, Sec. 7.2.4.B, may be reduced for restricted housing types by multiplying the adjustment factor times the baseline minimum:

<u>Housing Type</u>	<u>Adjustment Factor</u>
<u>MPDUs and WFHUs</u>	<u>0.50</u>
<u>Age-Restricted Housing</u>	<u>0.75</u>
<u>Senior Housing</u>	<u>0.50</u>
 - b. Religious Assembly
 - i. No change.
 - ii. No change.

- iii. No change.
 - c. The parking minimum resulting from a Special Use adjustment may not be further reduced by additional adjustments under this section, Sec. 7.2.3.H.
- 3. Shared Parking
 - a. An application with more than one use may submit a shared parking analysis using the Urban Land Institute Shared Parking Model (latest edition) rather than use the parking table in Sec. 7.2.4.B.
 - b. The minimum number of required parking spaces under the shared parking model may be adjusted under Sec. 7.2.3.H.3 or Sec. 7.2.3.H.4.
- 4. Car-Share Space
No change.
- 5. Unbundled Residential Space
No change.
- 6. Adjustments Only Allowed in Commercial/Residential and Employment Zones
 - a. NADMS Factor
 - i. The baseline minimum parking rate or shared parking model rate may be reduced by the Non-Auto Driver Mode Share (NADMS) percentage goal recommended in the applicable master plan, up to a maximum reduction of 20%.
 - ii. This factor must be calculated before any other adjustment is taken.
 - b. Carpool/Vanpool Space
No change.
 - c. Bike-Share-Facility
No Change.
 - d. Changing Facilities
No change.

Sec. 7.2.4. Parking Requirements

- 7.2.4.A. Using the Parking Tables: no change.
- Modify table header in 7.2.4.B. Vehicle Parking Spaces:

Use or Use Group	Metric	Ag, Rur, Res, Ind Zones	C/R & Emp Zones		
			<u>Reduced Parking Area</u>	<u>Parking Lot District and Reduced Parking Area</u>	<u>Outside of Parking Lot District and Reduced Parking Area</u>
			Baseline Min	Baseline Max	Baseline Min

In General

Zone Categories

There are 4 categories of Floating zones:

Residential Floating zones (Division 5.2);

Commercial/Residential Floating zones (Division 5.3);

Employment Floating zones (Division 5.4); and

Industrial Floating zones (Division 5.5)

Section 5.1.2. Purpose

The purpose of the Floating zones is to:

A. Implement comprehensive planning objectives by:

1. ~~furthering the goals of the general plan, applicable master plan, and functional master plans;~~
2. ~~ensuring that the proposed uses are in balance with and supported by the existing and planned infrastructure in the general plan, applicable master plan, and functional master plan; and~~
3. ~~allowing design flexibility to integrate development into circulation networks, land use patterns, and natural features within and connected to the property; and~~

B. Encourage the appropriate use of land by:

1. ~~providing flexible applicability to respond to changing economic, demographic, and planning trends that occur between comprehensive District or Sectional Map Amendments;~~
2. ~~allowing various uses, building types, and densities on sites determined by the property's size and base zone to serve a diverse and evolving population; and~~
3. ~~ensuring that development satisfies basic sustainability requirements including:~~
 - a. ~~locational criteria, connections to circulation networks; and~~

C. Ensure protection of established neighborhoods by:

1. ~~establishing compatible relationships between new development and existing neighborhoods through limits on applicability, density, and uses;~~
2. ~~providing development standards and general compatibility standards to protect the character of adjacent neighborhoods; and~~
3. ~~allowing design flexibility to provide mitigation of any negative impacts found to be caused by the new use.~~

Applicability and Approval Required

- A. A Floating zone must not be approved for property that is in an Agricultural or Rural Residential zone.
- B. If a Floating zone is recommended in a master plan, there are no prerequisites for an application.
- C. If a Floating zone is not recommended in a master plan, the following apply:
 1. The maximum allowed density is based on the base zone and on size of the tract as stated in Division 5.2 through Division 5.5. and any density bonus requested under Chapter 25A may be added to the density allowed under Division 5.2 through Division 5.5. and included in the units per acre or FAR of the zone requested.
 2. Residential Base Zone
 - a. When requesting a Residential Detached Floating (RDF) or Residential Townhouse Floating (TF) zone for a property with a Residential base zone:
 - i. If neither commercial uses are requested and no nor any increase in density above that allowed by the base zone is requested, there are no prerequisites for an application;
 - ii. If a commercial use or an increase in density above that allowed by the base zone is requested, the application must satisfy at least a minimum of 2 of the prerequisites for each of the following categories under Section 5.1.2.D.
 - b. When requesting an Apartment Floating (AF) or Commercial Residential Neighborhood Floating (CRNF) zone for a property with a Residential base zone:
 - i. The property must front on a nonresidential street or must confront or abut a property that is not in an Agricultural, Rural Residential, or Residential Detached zone; and

- ii. The application must satisfy a minimum of 2 prerequisites for each of the categories under Section 5.1.2.D.
- c. When requesting a Commercial Residential Floating (CRF), Commercial Residential Town Floating (CRTF), any Employment Floating (NRE, GRF, EOFF, LSCF), or any Industrial Floating (ILF or IMF) zone for a property with a Residential base zone:
 - i. The property must front on a nonresidential street or must confront or abut a property that is not in an Agricultural, Rural Residential, or Residential zone; and
 - ii. The application must satisfy a minimum of 2 prerequisites for each of the categories under Section 5.1.2.D.
- 3. Non-Residential Base Zone
When requesting a Floating zone for a property with a non-Residential base zone there are no additional prerequisites for an application.

D. Prerequisites

Category	Prerequisite Choices
Transit & Infrastructure	<u>At least 75% of the site is within ¼ mile of a Level 3, ½ mile of a Level 2, or ¾ mile of a Level 1 transit station/stop.</u>
	<u>The site has frontage on and vehicular, bicycle, and pedestrian access to at least two roads, at least one of which is non-residential.</u>
	<u>The site is served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.</u>
	<u>All signalized intersections within ¼ mile of the site boundary are operating below the applicable congestion standard.</u>
	<u>The project is age-restricted or senior housing, or if proposing development that may generate students, the site must not be in an area that is under moratorium due to school capacity or result in a school utilization rate greater than 120% because of the proposed development. For any site within 2 school clusters, only the portions of the site that satisfy this requirement can proceed.</u>
Vicinity & Facilities	<u>The site is in a transitional location between existing Residential Multi-Unit, Residential Townhouse, or non-Residential uses and Residential Multi-Unit, Residential Townhouse, or Residential Detached uses.</u>
	<u>The site is adjacent to an existing safe and complete bicyclist route that provides access to commercial services within 3 miles.</u>
	<u>The site is adjacent to an existing safe and complete pedestrian route that provides access to an existing or master-planned school within ½ mile.</u>
	<u>The site is adjacent to an existing safe and complete pedestrian route that provides access to existing public park and recreation facilities that satisfy at least 30% of the recreation demand under the Planning Board's Recreation Guidelines, as amended, within ¾ mile.</u>
	<u>The site is adjacent to an existing safe and complete pedestrian route that provides access to an existing grocery store or County-permitted farmer's market within ¾ mile.</u>
Environment & Resources	<u>The limits of disturbance for the development will not overlap any stream, floodplain, wetland, or environmental buffer or any slopes greater than 25% or slopes greater than 35% where erodible soils are present.</u>
	<u>The site does not contain any forest or, if forest is present, the limits of disturbance for the development will not reduce the forest cover to less than an area of 10,000 square feet and width of 50 feet at any point.</u>
	<u>The site does not contain any rare, threatened, or endangered species or critical habitats listed by the Maryland Department of Natural Resources.</u>
	<u>The site is on land containing contaminated soils and is developed in conjunction with an environmental Voluntary Cleanup Program under the Maryland Department of Environmental Protection.</u>
	<u>The site is currently developed with more than 75% impermeable surfaces, including paving and roofed-structures, and does not currently provide stormwater management meeting the standards applicable on the date of filing.</u>

Location	<p>At least 75% of the site must be within 1/2 mile of a Level 2 transit station/stop or 1 mile of a Level 1 transit station/stop.</p> <p>The site must be served by existing water and sewer infrastructure that will not require either an upgrade to the service line or installation of a pump station due to the proposed development.</p> <p>The site must be in a transitional location between existing Residential Multi-Unit, Residential Townhouse, or non-Residential zoning and Residential Multi-Unit, Residential Townhouse, or Residential Detached zoning.</p> <p>The limits of disturbance for the development may not overlap any stream, floodplain, wetland, or environmental buffer on-site will not be adversely impacted by the development.</p> <p>The project is age-restricted or senior housing, or if proposing development that may generate students, the site must not be in an area that is under moratorium due to school capacity or result in a school utilization rate greater than 120% because of the proposed development. For any site within 2 school clusters, only the portions of the site that satisfy this requirement can proceed. Age-restricted or senior housing automatically qualifies for this prerequisite.</p>
Circulation Network	<p>All streets, trails, and sidewalks, excluding lead walks to individual residential units, built as part of the development must be dedicated or placed under a public access easement, available for general public use.</p> <p>Except for detached houses, all parking, except on-street parallel parking, must be to the side of or behind buildings.</p> <p>Surface parking, drive aisles, and driveways for the development must not cover more than 20% of the site.</p> <p>The site has frontage on a nonresidential street. All streets accommodate through traffic; no streets terminate on the site.</p> <p>The tract is adjacent to an existing pedestrian and bicyclist route that is at least 5 miles in length.</p>

Approval

Application of a Floating zone requires approval of a Local Map Amendment under Section 8.2.1.

A Floating zone application that meets the prerequisites and requirements in Article 59-5 may not be sufficient to require approval of the application.

Amendments to a Floating zone once it has been applied to a property are restricted to the density and use limits that could have been approved — but were not requested — based on the previous base zone.

Special Provisions for Properties in a Zone Under Article 59-9

Properties in a zone under Article 59-9 may be rezoned to a Floating zone in Article 59-5 as follows:

The applicant must propose identify an equivalent Euclidean zone based on the subject property's existing use and density;

The This equivalent Euclidean zone is the base zone that determines:

the prerequisites under Section 5.1.2 that apply;

the Floating zone that may be requested; and

any applicable land uses, building types, and development standards.

Section 5.1.4 does not apply where Article 59-9 specifically prohibits rezoning to a new Floating zone.

Residential Floating Zones

Zones

There are 3 Residential Floating zone categories.

Residential Floating zones are mapped using the zone's initials followed by a number indicating the maximum allowed units per acre approved by a Local Map Amendment under Section 8.2.1:

- Residential Detached – Floating (RDF-#);
- Townhouse – Floating (TF-#); and
- Apartment – Floating (AF-#).

Purpose

The purpose of the Residential Floating zones is to:

allow flexibility in residential development, including site layout, lot size, and placement;

allow residential development of a certain size to provide limited accessory commercial uses for the daily needs of the community; and

provide residential development that is compatible with the surrounding neighborhood.

Land Uses

Allowed Uses

Land uses are allowed in the Residential Floating zones as follows:

Floating Zone Category	Approved Density	All Uses Allowed
RDF	< 3 units/acre and < 150 total units	R-200
	< 3 units/acre and ≥ 150 total units	R-200, CRN
	≥ 3 units/acre and < 150 total units	R-90, R-60, R-40
	≥ 3 units/acre and ≥ 150 total units	R-90, R-60, R-40, CRT CRN
TF	< 12 units/acre and < 150 total units	TLD
	< 12 units/acre and ≥ 150 total units	TLD, CRN
	≥ 12 units/acre and < 150 total units	TMD, THD
	≥ 12 units/acre and ≥ 150 total units	TMD, THD, CRT CRN

Floating Zone Category	Approved Density	All Uses Allowed
AF	< 20 units/acre and < 150 total units	R-30, CRN
	< 20 units/acre and ≥ 150 total units	R-30, CRF <u>CRN</u>
	≥ 20 units/acre and < 150 total units	R-20, R-10, CRN
	≥ 20 units/acre and ≥ 150 total units	R-20, R-10, <u>CRF</u>

Use Provisions

In the Residential Floating zones the maximum area of the site for nonresidential uses is 25% and the maximum nonresidential density on that 25% of the site is 0.25 FAR.

The lot on which any approved commercial uses are located must be separated from the boundary of the tract included in the Local Map Amendment by residential lots or open space and must not share a lot line with any properties in a Residential zone not included in the Local Map Amendment.

An applicant may voluntarily prohibit specific uses or establish binding elements that restrict specific uses to support the necessary findings of approval under Section 8.2.1.

Building Types

Building types are allowed as follows:

	Detached House	Duple x	Townhouse	Apartment	Multi Use Building	General Building
RDF	A				S	A
TF	A	A	A		S	A
AF	A	A	A	A	S	A
KEY A = Allowed S = Subject to approval of commercial uses under Section 5.2.2						

An applicant may voluntarily prohibit specific building types or establish binding elements that restrict specific uses to support the necessary findings of approval under Section 8.2.1.

Development Standards

Density

Residential Density

If a Floating zone is recommended in a master plan, residential density must not exceed that recommendation, except where MPDUs above the minimum required or TDRs are provided.

If a Floating zone is not recommended in a master plan and the base zone is residential, the following residential density limits apply, calculated on site area:

Pre-Existing Euclidean Zone	Base Lot/Site Size	Base Density in Units per Acre	Maximum Allowed Density in Units per Acre		
			Less than 3 times the base lot/site size	3 to <6 times the base lot/site size	At least 6 times the base lot/site size
RE-2, RE-2C	2 acres	0.50	0.50	0.75	1.00
RE-1	40,000	1.09	1.09	1.63	2.18
R-200	20,000	2.18	2.18	3.27	4.36
R-90	9,000 SF	4.84	4.84	7.26	12.00
R-60	6,000 SF	7.26	7.26	10.89	14.52
R-40	4,000 SF	10.89	10.89	16.33	21.78
TLD	20,000	9.00	9.00	13.50	18.00
TMD	20,000	12.00	12.00	18.00	24.00
THD	40,000	15.00	15.00	22.50	30.00
R-30	12,000 SF	14.50	14.50	21.75	29.00
R-20	16,000 SF	21.70	21.70	32.55	43.40
R-10	20,000	43.50	43.50	65.25	87.00

If a Floating zone is not recommended in a master plan and the base zone is non-residential, the following residential density limits apply, calculated on tract area:

Density Allowed			
Pre-Existing Euclidean Zone Total FAR	Maximum Density Allowed in Units per Acre		
	Up to 0.5 acres	0.51 acres - 3.00 acres	Greater than 3 acres
≤ 0.5	18	24	31
0.75 - 1.0	31	37	43
1.25 - 1.5	49	74	99
1.75 - 2.5	74	99	124
2.75 - 3.5	99	124	149
3.75 - 4.5	124	149	174
4.75 - 5.5	149	174	200
5.75 - 6.5	174	200	200
≥ 6.75	200	200	200

Commercial Density

Commercial density, if allowed under Section 5.2.3, is limited to 0.25 FAR, calculated on 25% of the site's land area.

Modifications by Applicant

An applicant may limit density below the maximum allowed by Section 5.2.5.A₁ to support the necessary findings of approval under Section 8.2.1.

Setback and Height

If a Floating zone is recommended in a master plan, height must not exceed that recommendation.

Maximum height and setbacks are established by the floating zone plan.

Height must satisfy the compatibility standards for the applicable building type under Section 4.1.6.B.

Lot Size

Minimum lot sizes are established by the floating zone plan.

Coverage

Minimum open space must be provided as a percentage of the site area as determined by the most intense building type approved and density in units per acre.

Open Space Required				
Building Type	Minimum Open Space Required Based on Units per Acre			
	1-19 units/acre	20-39 units/acre	40-59 units/acre	60+ units/acre
Detached House	0%	10%	10%	15%

Open Space Required				
Building Type	Minimum Open Space Required Based on Units per Acre			
	1-19 units/acre	20-39 units/acre	40-59 units/acre	60+ units/acre
Duplex	0%	10%	15%	20%
Townhouse	10%	15%	20%	25%
Apartment, Multi Use, or General Building	15%	20%	25%	30%

General Requirements

Parking, open space, recreation facilities, screening, and landscaping must be provided under Article 59-7 according to ~~as required for~~ the Euclidean zone that establishes uses under Section 5.2.3 for each applicable residential or commercial area.

The floating zone plan may provide for additional parking, open space, recreation facilities, screening, or landscaping or further restrict lighting to allow the District Council to make the necessary findings of approval under Section 8.2.1.

Commercial/Residential Floating Zones

Zones

There are 3 categories of Commercial/Residential Floating zones.

Commercial/Residential Floating zones are mapped using the zone's initials followed by the maximum allowed total, commercial, and residential densities and maximum allowed height as limited by Division 5.3.

Commercial Residential Neighborhood – Floating (CRNF# C# R# H#)

Commercial Residential Town – Floating (CRTF# C# R# H#)

Commercial Residential – Floating (CRF# C# R# H#)

Purpose

The purpose of the Commercial/Residential Floating zones is to:

allow development of mixed-use centers and communities at a range of densities and heights flexible enough to respond to various settings;

allow flexibility in uses for a site; and

provide mixed-use development that is compatible with adjacent development.

Land Uses

The following land uses are allowed in the Commercial/Residential Floating zones:

In the CRNF zones, only the uses allowed in the CRN zone are allowed.

In the CRTF zones, only the uses allowed in the CRT zone are allowed.

In the CRF zones, only the uses allowed in the CR zone are allowed.

An applicant may voluntarily prohibit specific uses or establish binding elements that restrict specific uses to support the necessary findings of approval under Section 8.2.1.

Building Types Allowed

Any building type is allowed in the Commercial/Residential Floating zones.

An applicant may voluntarily prohibit specific building types or establish binding elements that restrict specific building types to support the necessary findings of approval under Section 8.2.1.

Development Standards

Density

If a Floating zone is recommended in a master plan, density must not exceed that recommendation.

If a Floating zone is not recommended in a master plan, the following density limits apply.

Pre-Existing Euclidean Zone	Density Allowed					
	Maximum Density Allowed in FAR Based on Size of Tract in Acres					
	Up to 0.5 acres		0.51 acres - 3.00 acres		Greater than 3 acres	
	Total Density	Cor R Density	Total Density	Cor R Density	Total Density	Cor R Density
RE-2, RE-2c, RE-1, R-200	0.75 FAR	0.5 FAR	1.0 FAR	0.75 FAR	1.25 FAR	1.0 FAR
R-90, R-60, R-40, TLD, TMD, THD	1.0	0.75	1.25	1.0	1.5	1.25
R-30, R-20, R-10	1.25	1.0	1.5	1.25	1.75	1.5
CRN	1.0	0.75	1.25	1.0	1.5	1.25
CRT	2.0	1.5	3.0	2.0	4.0	3.0
CR	4.0	3.0	6.0	4.5	8.0	6.0
Employment	2.0	1.5	3.0	2.0	4.0	3.0
IL, IM	0.75	0.5	1.0	0.75	1.5	1.25

An applicant may limit density below the maximum allowed by Section 5.3.5.A to support the necessary findings of approval under Section 8.2.1.

Setback and Height

If a Floating zone is recommended in a master plan, height must not exceed that recommendation.

Maximum height and setbacks are established by the floating zone plan.

Height must satisfy the compatibility standards for the applicable building type under Section 4.1.6.B.

Lot Size

Minimum lot sizes are established by the floating zone plan.

~~D. Coverage~~

~~The minimum open space is the minimum open space required for the Euclidean zone that establishes uses under Section 5.3.2.A for each applicable building type.~~

General Requirements

Parking, recreation facilities, screening, and landscaping must be provided under Article 59-7 as required for the Euclidean zone that establishes uses under Section 5.3.3.

Open Space

If no public benefits are required under Section 5.3.4.E, Public open space must be provided under Article 59-4 (for standard method) as required for the Euclidean zone that establishes uses under Section 5.3.3.

If public benefits are required under Section 5.3.4.E, open space must be provided under Article 59-6 (for optional method) as required for the Euclidean zone that establishes uses under Section 5.3.3.

The floating zone plan may provide for additional parking, open space, recreation facilities, screening, or landscaping or further restrict lighting to allow the District Council to make the necessary findings of approval under Section 8.2.1.

Public Benefits

Public Benefits Required

Development above 1.0 FAR in the CRTF zone requires public benefits.

Development above 0.5 FAR in the CRF zone requires public benefits.

When public benefits are required by development in the Commercial/Residential Floating zones, a sketch plan must be submitted under Section 8.3.3.

Public Benefit Points and Categories Required

Public benefits under Division 6.6 must be provided according to zone and tract size or maximum total mapped FAR, whichever requires more public benefit points:

Zone	Tract Size OR Max Total FAR	Public Benefit Points (min)	Number of Benefit Categories (min)
CRTF	< 10,000 SF OR	25	2
	10,000 SF to < 1,250,000 SF OR	50	3
	≥ 1,250,000 SF OR	75	4
CRF	< 10,000 SF OR	50	3
	10,000 SF to < 1,250,000 SF OR	100	4
	≥ 1,250,000 SF OR	125	5

In the CRF zone, the purchase of BLTs is required under Section 6.6.3.F.1.a.

Employment Floating Zones

Zones

There are 4 categories of Employment Floating zones.

Employment Floating zones are mapped using the zone's initials followed by the maximum allowed total density and maximum allowed height as limited by Division 5.4.

GENERAL RETAIL – FLOATING	(GRF# H#)
NEIGHBORHOOD RETAIL – FLOATING	(NRF# H#)
EMPLOYMENT OFFICE – FLOATING	(EOFF# H#)
LIFE SCIENCES CENTER – FLOATING	(LSCF# H#)

Purpose

The purpose of the Employment Floating zones is to:

allow development of commercial centers and communities, at a range of densities and heights flexible enough to respond to various settings.

allow limited residential development and flexibility in uses for a site; and

provide development that is compatible with adjacent development.

Land Uses

The following land uses are allowed in the Employment Floating zones:

In the GRF zones, only the uses allowed in the GR zone are allowed.

In the NRF zones, only the uses allowed in the NR zone are allowed.

In the EOFF zones, only the uses allowed in the EOF zone are allowed.

In the LSCF zones, only the uses allowed in the LSC zone are allowed.

An applicant may voluntarily prohibit specific uses or establish binding elements that restrict specific uses to support the necessary findings of approval under Section 8.2.1.

Building Types Allowed

Any building type is allowed in the Employment Floating zones.

An applicant may voluntarily prohibit specific building types or establish binding elements that restrict specific building types to support the necessary findings of approval under Section 8.2.1.

Development Standards

Density

If a Floating zone is recommended in a master plan, density must not exceed that recommendation.

If a Floating zone is not recommended in a master plan, the following density limits apply:

Density Allowed			
Pre-Existing Euclidean Zone	Maximum Total Density Allowed in FAR Based on Size of Tract in Acres		
	Less than 0.5 Acres	0.5 – 3.00 Acres	Greater than 3 Acres
RE-2, RE-2C, RE-1, R-200	0.75 FAR	1.0 FAR	1.25 FAR
R-90, R-60, R-40, TLD, TMD, THD	1.0	1.25	1.5
R-30, R-20, R-10	1.25	1.5	1.75
CRN	1.0	1.25	1.5
CRT	2.0	3.0	4.0
CR	4.0	6.0	8.0
Employment	2.0	3.0	4.0
IL, IM	0.75	1.0	1.5

An applicant may limit density below the maximum allowed by Section 5.4.5.A to support the necessary findings of approval under Section 8.2.1.

Setback and Height

If a Floating zone is recommended in a master plan, height must not exceed that recommendation.

Maximum height and setbacks are established by the floating zone plan.

Height must satisfy the compatibility standards for the applicable building type under Section 4.1.6.B.

Lot Size

Minimum lot sizes are established by the floating zone plan.

D. Coverage

The minimum open space is the minimum open space required for the Euclidean zone that establishes uses under Section 5.4.2.A for each applicable building type.

General Requirements

Parking, recreation facilities, screening, and landscaping must be provided under Article 59-7 as required for the Euclidean zone that establishes uses under Section 5.4.3.

Open Space

If no public benefits are required under Section 5.4.4.E, Public open space must be provided under Article 59-4 (for standard method) as required for the Euclidean zone that establishes uses under Section 5.4.3.

If public benefits are required under Section 5.4.4.E, open space must be provided under Article 59-6 (for optional method) as required for the Euclidean zone that establishes uses under Section 5.4.3.

The floating zone plan may provide for additional parking, open space, recreation facilities, screening, or landscaping or further restrict lighting to allow the District Council to make the necessary findings of approval under Section 8.2.1.

Public Benefits

Public Benefits Required

Development above 1.0 FAR in the EOFF zone requires public benefits.

Development above 0.5 FAR in the LSCF zone requires public benefits.

When public benefits are required by development in the Employment Floating zones, a sketch plan must be submitted under Section 8.3.3.

Public Benefit Points and Categories Required

Public benefits under Division 6.6 must be provided according to zone and tract size or maximum total mapped FAR, whichever requires more public benefit points:

Zone	Tract Size OR Max Total FAR	Public Benefit Points (min)	Number of Benefit Categories (min)
LSCF	< 10,000 SF OR	15	1
	10,000 SF to < 1,250,000 SF OR	30	2
	≥ 1,250,000 SF OR	40	3
EOFF	< 10,000 SF OR	30	2
	10,000 SF to < 1,250,000 SF OR	60	3
	≥ 1,250,000 SF OR	75	4

In the LSCF zone, the purchase of BLTs is required under Section 6.6.3.F.1.b.

Industrial Floating Zones

Zones

There are 2 categories of Industrial Floating zones.

Industrial Floating zones are mapped using the zone's initials followed by the maximum allowed total density and maximum allowed height as limited by Division 5.5.

INDUSTRIAL LIGHT – FLOATING (ILF# H#)

INDUSTRIAL MODERATE – FLOATING (IMF# H#)

Purpose

The purpose of the Industrial Floating zones is to allow development of industrial sites with primarily light manufacturing, warehouse, and related uses at a range of densities and heights flexible enough to respond to various settings.

Land Uses

The following land uses are allowed in the Industrial Floating zones:

In the ILF zones, only the uses allowed in the IL zone are allowed.

In the IMF zones, only the uses allowed in the IM zone are allowed.

An applicant may voluntarily prohibit specific uses or establish binding elements that restrict specific uses to support the necessary findings of approval under Section 8.2.1.

Building Types Allowed

Building types are allowed under the equivalent Euclidean zone.

An applicant may voluntarily prohibit building types or establish binding elements that restrict specific building types to support the necessary findings of approval under Section 8.2.1.

Development Standards

Density

If a Floating zone is recommended in a master plan, density must not exceed that recommendation.

If a Floating zone is not recommended in a master plan, the following density limits apply:

Density Allowed			
Pre-Existing Euclidean Zone	Maximum Total Density Allowed in FAR Based on Size of Tract in Acres		
	Less than 0.5 Acres	0.5 – 3.00 Acres	Greater than 3 Acres
RE-2, RE-2c, RE-1, R-200	0.50 FAR	0.75 FAR	1.00 FAR
R-90, R-60, R-40, TLD, TMD, THD	0.75	1.00	1.25
R-30, R-20, R-10	1.00	1.25	1.50
CRN	0.75	1.00	1.25
CRT	1.00	1.25	1.50
CR	2.00	2.50	3.00
Employment	1.00	1.25	1.50
Industrial	2.00	2.50	3.00

An applicant may limit density below the maximum allowed by Section 5.5.5.A to support the necessary findings of approval under Section 8.2.1.

Setback and Height

If a Floating zone is recommended in a master plan, height must not exceed that recommendation.

Maximum height and setbacks are established by the floating zone plan.

Height must satisfy the compatibility standards for the applicable building type under Section 4.1.6.B.

Lot Size

Minimum lot sizes are established by the floating zone plan.

D. Coverage

The minimum open space is the minimum open space required for the Euclidean zone that establishes uses under Section 5.5.2.A for each applicable building type.

General Requirements

Parking, recreation facilities, screening, and landscaping must be provided under Article 59-7 as required for the Euclidean zone that establishes uses under Section 5.5.3.

Public Open space must be provided under Article. ~~59-4 (for standard method)~~ and Article ~~59-6 (for optional method)~~ as required for the Euclidean zone that establishes uses under Section 5.5.3.

The floating zone plan may provide for additional parking, open space, recreation facilities, screening, or landscaping or further restrict lighting to allow the District Council to make the necessary findings of approval under Section 8.2.1.

Changes in Public Benefit Points by Category	Current Code	Planning Board Draft	PHED Committee Recommendation 2011
Major Public Facilities			
LSC	n/a	20	n/a
EOF or CRT	40	40	40
CR	70	70	70
Transit Proximity			
LSC	n/a	0-10	n/a
EOF or CRT	7.5-25	0-25	0
CR	15-50	2.5-50	0
Connectivity and Mobility			
Advance Dedication			
LSC	n/a	8	n/a
EOF or CRT	30	15	0
CR	30	30	0
Minimum Parking	10	10	20
Neighborhood Services	15	10	10
Public Parking	25	25	20
Through-Block Connections	20	15	0
Transit Access or Streetscape Improvement	n/a	20 (combined)	n/a
Transit Access	20	n/a	5
Streetscape Improvement	20	n/a	10
Trip Mitigation	20	15	5
Way-Finding	10	5	0
Diversity of Uses and Activities			
Adaptive Buildings	15	10	0
Affordable Housing	40	40	40
Care Centers	20	20	15
Dwelling Unit Mix	10	10	5
Enhanced Accessibility for Seniors or the Disabled	20	15	10
Enhanced Visitability for Seniors or the Disabled	n/a	15 (new)	n/a
"Live/Work"	15	10	0
Small Business Opportunities	20	20	10
Workforce Housing	n/a	20 (new)	n/a
Quality Building and Site Design			
Architectural Elevations	20	20	0
Enhanced Recreation Facilities	n/a	10 (new)	n/a
Exceptional Design	10	10	10
Historic Resource Protection	20	20	15
Public Open Space	20	20	15

Public Art	15	15	10
Structured Parking	20	20	20
Tower Step-back	10	5	(included in Exceptional Design)
Protection and Enhancement of the Natural Environment			
Building Lot Termination	30	30	30
Building Reuse	100	100	100
Cool Roof	10	5	0
Energy Conservation and Generation	15	n/a (split)	0
Energy Conservation	n/a	10	n/a
Energy Generation	n/a	15	n/a
Habitat Preservation and Restoration	20	20	0
Recycling Facility Plan	10	5	0
Transferable Development rights	20	20	0
Tree Canopy	15	10	0
Vegetated Area	10	5	0
Vegetated Roof	15	10	0
Vegetated Wall	10	5	0

Transit Proximity Public Benefit – Current Code								
Proximity	Abutting or Confronting		Within ¼ mile		Between ¼ and ½ mile		Between ½ and 1 mile	
Transit Level	1	2	1	2	1	2	1	2
CRT	25	15	20	12.5	15	10	10	7.5
CR	50	30	40	25	30	20	20	15

Transit Proximity Public Benefit – Planning Board Draft												
Proximity	Abutting or Confronting			Within ¼ mile			Between ¼ and ½ mile			Between ½ and ¾ mile		
Transit Level	1	2	3	1	2	3	1	2	3	1	2	3
LSC	10	5	2.5	8	4	0	6	2	0	4	0	0
EOF or CRT	25	15	5	20	12.5	2.5	15	10	0	10	7.5	0
CR	50	30	10	40	25	5	30	20	5	20	15	2.5

The Zoning Rewrite

Proposed Changes/Topics for Further Discussion

The Long History of the Zoning Review: Why rush now?

Time line for the Comprehensive Zoning Review

- ▶ 13 years since first undertaken (2000)
- ▶ Two consultants (Clarion, Code Studio)
- ▶ Four Planning Directors (Loehr, Hamer, Wright, Stanley, Wright)
- ▶ Four Chairs (Hussman, Berlage, Hanson, Carrier)

Shifts in emphasis and direction

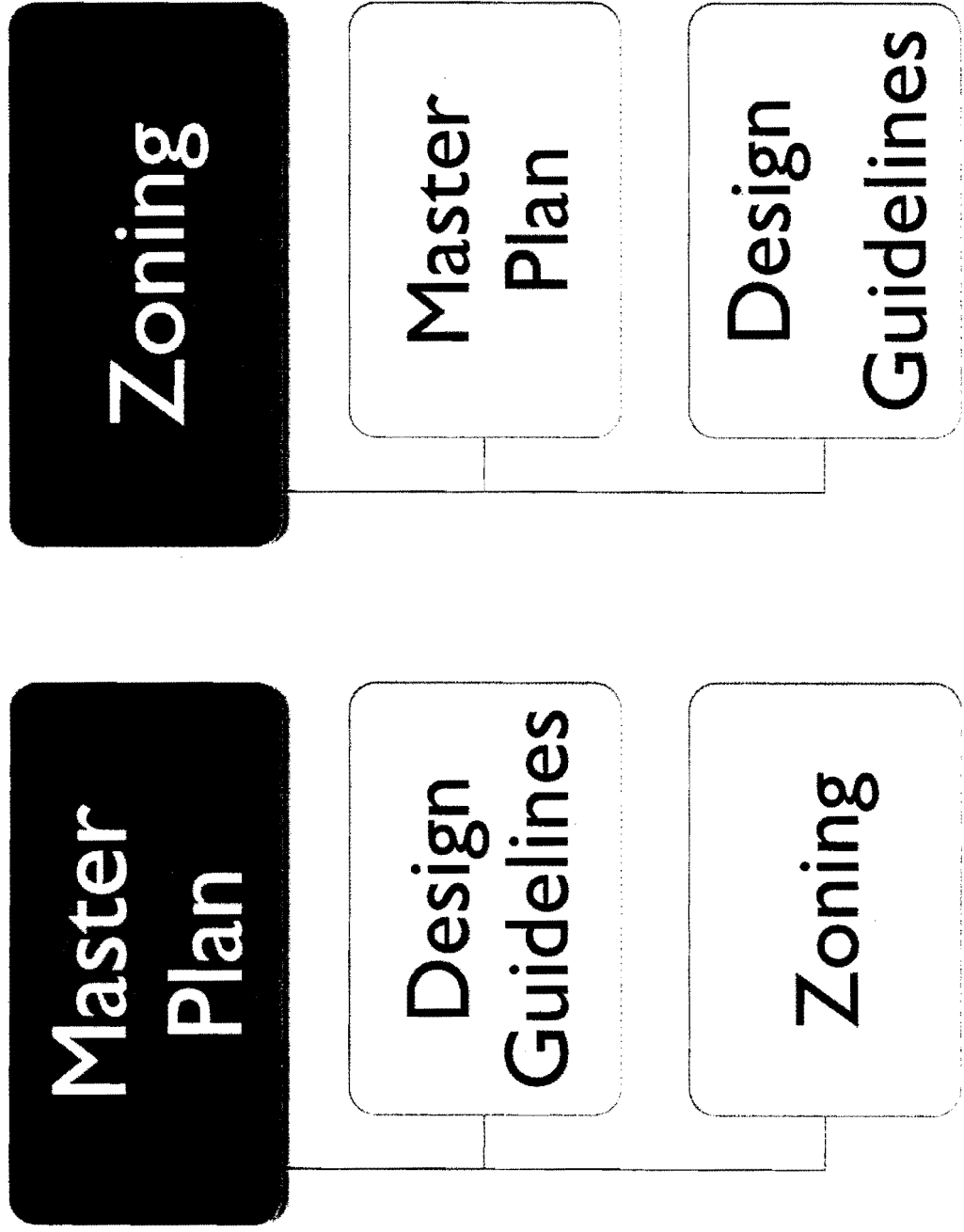
- ▶ Phase 1 and 2 (2001-2003) ZTAs to make changes to special exceptions and commercial zones
- ▶ Under Hanson/Stanley (2007, 2008) – changed direction
 - ▶ Zoning Discovery – 2009
 - ▶ Planning Board Draft June 2013

What's Different

- ▶ In our current process
 - ▶ Master Plans manage change and recommend zoning
 - ▶ SMA implements master plan recommended zoning
 - ▶ Overlay zones address specific issues defined in a master plan
 - ▶ Floating zones address transitional areas and may require master plan recommendation

- ▶ The Rewrite
 - ▶ Floating zones can be applied for anywhere; purposes and prerequisite choices do not offer adequate protection for existing residential neighborhoods
 - ▶ Overlay zones are no longer linked to master plans; no language explaining purpose of overlay zones
 - ▶ All zones would convert to new zones which have more by-right and conditional uses and more potential for mixed use everywhere

Existing versus Proposed Process



Potential Consequences

- ▶ Potential for greater build-out due to the zoning conversions.
- ▶ Inadequate public facilities to support greater build-out.
- ▶ Compromising the integrity of existing residential neighborhoods
 - ▶ fewer reviews and protections
 - ▶ introduction of mixed and or commercial floating zones
- ▶ Undermining public trust by changing the way the county develops and the way citizens participate in that development.

Issues Identified by the Communities

- ▶ General Building Provision
- ▶ Land Uses
- ▶ CR Zone benefits
- ▶ Floating Zones
- ▶ Overlay Zones
- ▶ Conversion

General Buildings: Continuing Community Concerns

- ▶ Text and illustration appear on pp. 4-4 and 4-5 of the rewrite.
- ▶ Considerable PHED Committee discussion, unresolved.
- ▶ Do the text and illustration clarify or complicate the presence of non-residential buildings for permitted non-residential uses in residential neighborhoods? Given that these buildings already exist in the County, what is the advantage of defining and illustrating them? Focus on discussion on p. 12 of 9/17/13 Council staff packet and on additional testimony at upcoming public hearing.

Proposed Changes to Land Use Table

- ▶ Certain uses have a history of intrusiveness when operating in close proximity to single-family residential neighborhoods, especially on the edges.
- ▶ When the following uses abut or confront a property zoned residential that is vacant or improved with a residential use, change the land use table of the rewrite as follows for the CRT and CR zones:
- ▶ Page 3-8: Hotel/motel – from P (Permitted) to L (limited)
- ▶ Page 3-9: Funeral home – from L to C (Conditional)
- ▶ Page 11: Drive-thru and Vehicle Repair (minor) – from L to C

Seasonal Outdoor Sales

- ▶ See page 3-19 of the rewrite, which loosens the standards for seasonal outdoor sales, a limited (L) use in all agricultural and residential zones.
- ▶ Does not appear to solve existing problems but does appear to create new ones.
- ▶ Recommend keeping the existing standards for seasonal outdoor sales to avoid increasing the duration and number of events.

Animal Husbandry

- ▶ Page 3-6 of the rewrite lists Animal Husbandry as a permitted use in the agricultural zones and as a limited use in all residential zones.
- ▶ PHED Committee recommended changes, including a minimum 15-foot setback from any lot line, a solid roof on the accessory structure housing the animals, and a fenced area behind the rear building line.
- ▶ More changes should be made. The standards on page 3-18 should require an accessory structure to shelter 3 or more of any combination of hens, ducks, miniature goats, or rabbits.
- ▶ In addition to setting the number of square feet of *lot area* for each animal, require a minimum number of square feet for the accessory structure to house them.
- ▶ Add language requiring registration with the Maryland Department of Agriculture's Poultry Registration Program, which is MANDATORY for chickens and waterfowl.
- ▶ Develop executive regulations for care and housing and a fact sheet for all registrants. Many other jurisdictions have these requirements.

Affordable Housing

- ▶ Changes to public benefits lists for CR zones to prioritize affordable housing above the 12.5% minimum.

Zone Conversion Issues

- ▶ The NR (Neighborhood Retail) zone introduces residential uses into local-serving commercial (C-1) in low-density, non-transit-serviced areas (Cloverly, for example); contrary to adopted master plans
- ▶ R-60 residential properties adjacent to already developed C-2 area would be converted to CRT with reduced parking where transit is more than 1/2-mile away, resulting in spill-over parking into the R-60 neighborhood (Wheaton)
- ▶ C-1, C-2, C-4, and C-O properties abutting and confronting single-family homes are proposed for conversion to CRT and EOF with higher FAR and height than existing development standards; new zone would also allow by-right uses not currently permitted. (Four Corners)
- ▶ West Howard Avenue antiques district: I-1 zoned properties with existing maximum height of 42 feet and possible 1.0 - 1.5 FAR recommended for conversion to I-M with 2.5 FAR and a height of 120'. (Kensington)
- ▶ CBD-1 zone with a maximum 2.0 FAR (standard method) and 3.0 (optional method) and maximum height of 60 feet standard/90 feet optional is recommended for rezoning to the CR zone with a 3.0 FAR and 90 feet height. (Bethesda)
- ▶ When Council adopted the CR zone, a master/sector plan recommendation was needed before the CR zones were applied. This provision has been removed and CR zone is being applied throughout the county in places where it has not been recommended in a master or sector plan.

Master Plan Conversion Issues: Example

The Wheaton Sector Plan, approved in 2012, contains the following language about the Westfield District:

- ▶ The 76-acre Westfield Wheaton Mall is the eastern County's regional shopping mall. .. The Mall is currently zoned C-2 and built to approximately 0.4 FAR... the CR Zones would not work effectively with the existing mall. The main mall portion of the property could be rezoned for mixed-use development as part of the comprehensive rewrite of the County's Zoning Ordinance underway at the time of Plan adoption.
- ▶ Confirm the existing C-2 zoning on the remainder of the site (Parcels 3 and 10). Buildings of appropriate heights should also be located along University Boulevard West to be compatible with surrounding uses.
- ▶ Proposed conversion is to GR (General Retail) 1.5 FAR; Height 130 feet. Does this reflect the master plan?

Proposal to Address Conversion Issues

- ▶ Delay the mapping conversion (DMA) to allow adequate time for everyone to review all the changes to the Proposed Ordinance
- ▶ Determine if DMA is the appropriate vehicle to move forward
 - ▶ Review the master plan driven translations (see on-line reports on each master plan) for adjustments/consistency. These master plans have been identified by the communities and businesses as potential problems
 - ▶ Wheaton
 - ▶ Woodmont Triangle
 - ▶ Kensington
 - ▶ Burtonsville
 - ▶ Sandy Spring Ashton
 - ▶ Four Corners
 - ▶ Potomac
 - ▶ Determine if the master plan work program should be shifted to address issues raised by master plan driven translations

Alternative to DMA: Apply through SMAs

- ▶ Address commercial zone conversion issues by developing an expedited review workprogram for recently approved and adopted plans such as Twinbrook, Germantown, Shady Grove, White Flint, Great Seneca, Kensington, Takoma/Langley, and any others where the need for commercial area revisions are needed.
- ▶ Others can be addressed as they come up for review over the next few years: Long Branch, Glenmont, White Oak, Bethesda, Aspen Hill, White Flint II, Westbard.
- ▶ Floating zones are also an option for change.

Floating Zones

- ▶ **Commentary from the American Planning Association:**
 - ▶ Floating zones are helpful for communities where the direction of development and growth is uncertain or for communities that wish to achieve specific goals outlined in a comprehensive plan or other public documents. It provides flexibility for developers, who can use the zone to obtain density bonuses, height extensions, etc., in exchange for meeting other requirements or goals in the floating zone, such as affordable housing, public transit, etc. Critics, however, argue that floating zones undermine the ability of citizens to rely on the predictability of the zoning map and can favor private development over the public interest.

Floating Zones in Rewrite Intensify Development

▶ Residential Floating Zones

- ▶ Can go from RE-2 density to RE-1 density if property is 12 acres (increase from .5 to 1 du/acre)
- ▶ Can go from R-90 density to TMD density with 1.24 acres: (increase from 4.84 to 12 du/acre)
- ▶ Can go from R-60 density to R-30 density if property is less than one acre: (increase from 7.26 to 14.5 du/acre)

Proposed Floating Zone Changes

- ▶ Are industrial and employment floating zones needed ?
 - ▶ Fairland, Great Seneca Science Center, I-270 Corridor, Bethesda, Silver Spring have already been defined as key employment areas
 - ▶ The existing industrial areas should suffice unless we continue to eliminate them.
- ▶ Use floating zones for residential and/or mixed uses only in areas where new transportation facilities are planned and where edge conditions generate transitional areas. The proposed densities have to be supported by planned public facilities.
- ▶ Need further discussion of Council staff recommended changes in PHED Committee 9/17/13 packet re: prerequisites and other issues

Overlay Zones

- ▶ No provisions or directions for what an overlay zone is and how one could be created.
- ▶ Overlay zones might be needed in the future to protect communities.
- ▶ How would we add new TDR overlay areas?

Proposed Changes for Overlay Zones

▶ Current Ordinance

- ▶ C.18.2 Land must not be designated as an overlay zone unless the land is recommended for an overlay zone on a master or sector plan. The applicable master or sector plan must recommend boundaries of the overlay zone, and the goals and objectives for the development and use of land within the overlay zone. Land must only be designated within an Overlay zone when approved as part of a Sectional or District Map Amendment.

▶ PHED Version

- ▶ 4.8.1. Land must only be designated within an Overlay zone when approved as part of a Sectional or District Map Amendment.

▶ Proposed language

- ▶ Land must not be designated within an overlay zone unless the land is recommended for an overlay zone in a master or sector plan. The applicable master or sector plan must recommend boundaries of the overlay zone, and the goals and objectives for the development and use of land within the overlay zone. Land must only be designated within an Overlay zone when approved as part of a Sectional or District Map Amendment.